

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Jurisdictional Separations and)	CC Docket No. 80-286
Referral to the Federal-State Joint Board)	

REPLY COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc., on behalf of itself and its subsidiaries (collectively SBC), hereby submits its reply comments on the “*Glide Path*” policy paper filed with the Commission on December 19, 2001 by the state members of the Federal-State Joint Board on Jurisdictional Separations (Joint Board).¹ The *Glide Path* paper presents various alternatives for reforming the Commission’s jurisdictional separations regime. Each of these alternatives is premised on the assumption that the separations process will remain in place once the current five-year freeze of the Part 36 separations rules ends in 2006.²

Nine out of the fourteen commenters in this proceeding supported the elimination of Separations or the extension of the current Separations freeze. On the other hand, only two commenters supported retaining the separations process, but advocated changing the methodology. One of these commenters, the California Public Utilities Commission (CPUC), in support of its position that the jurisdictional separations process is necessary as a matter of law and policy argued that there is an absence of competition and that separations is essential for protecting ratepayers. The other such commenter, the Western Alliance, advocates that retention of the jurisdictional separations process is both mandated by law and necessary to preserve the availability of affordable service to rural customers. These two commenters fail to recognize

¹ Public Notice, “*Glide Path* Policy Paper Filed by State Members of Joint Board on Jurisdictional Separations,” DA 01-2973 (rel. Dec. 20, 2001) (*Glide Path*).

² *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382 (2001).

that the competitive and regulatory landscape of the telecommunications market has dramatically evolved since the inception of the jurisdictional separations rules. They also ignore the fact that Separations in a pure price cap environment has no impact on the rates charged to end user customers, pricing policies, or on competition. Legislation, regulation and industry changes have turned the telecom market into a highly competitive industry, and large ILECs' prices are no longer developed under cost-based regulation. With customer prices now being based on price caps or market driven forces rather than ILECs' embedded cost, the need to separate costs between jurisdictions has been eliminated and so should the jurisdictional separations process.

Furthermore, jurisdictional separations results do not affect the Universal Service Fund (USF). Universal service support for non-rural carriers is based on a forward-looking cost proxy model, not embedded financial accounting costs. The only inputs to the USF model related to separations are the factors that are currently frozen. SBC strongly advocates that when an ILEC is operating in under pure price caps in both the federal and state jurisdictions, the separations process is completely unnecessary in that state and should be eliminated.

As noted in the Commission's Part 36 *Freeze Order*, one of the primary purposes for the adoption of the separations process was to prevent incumbent local exchange carriers (ILECs) from recovering the same costs in both the interstate and intrastate jurisdictions. The adoption of any of the proposals outlined in the *Glide Path* paper, other than elimination of the process (Option 7) or extending the current freeze (Option 1), would not further support the Commission's goals of protecting ratepayers while eliminating unnecessary regulation. Options 2 through 6 would certainly be directly contrary to the Commission's stated goals of simplification and reducing unnecessary regulatory burdens. Furthermore, in light of the uncertainty surrounding the appropriate regulatory classification and treatment of broadband services,³ the adoption of additional rules to account for Packet Switching in the jurisdictional

³ The Commission has four proceedings currently pending to examine the appropriate legal and policy framework under the Act for domestic wireline broadband Internet access services. *See*,

separations process (Option 4) would be a premature step toward regulation of broadband technology. The adoption of any of the proposed options, other than Option 1 or 7, would be an unnecessary and costly step backwards for the Commission. Rather than seeking to reform a regulatory relic, the Commission should aim to eliminate the jurisdictional separations process as competition takes hold in the telecommunications marketplace. Thus, the Commission should continue the current freeze on Separations factors until the jurisdictional separations process is completely abolished.

Respectfully Submitted,

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Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities, CC Docket No. 02-33, Notice of Proposed Rulemaking, FCC 02-42, (rel. Feb. 15, 2002); *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities*, GN Docket No. 00-185, 15 FCC Rcd 19287 (2000); *In the Matter of Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services*, CC Docket No. 01-337, Notice of Proposed Rulemaking, FCC 01-360 (rel. Dec. 20, 2001); Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338; Implementation of Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98; Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket 98-147, Notice of Proposed Rulemaking, FCC 01-361, (rel. Dec. 20, 2001).

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